



TARYLE & ASSOCIATES
CERTIFIED PUBLIC ACCOUNTANTS

**FEDERAL STIMULUS BILL
AND
CALIFORNIA BUDGET**

SUMMARY

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Please be advised that, based on current IRS rules and standards, any tax advice that may be contained herein is not intended to be used, nor can it be used, for the avoidance of any tax penalty that the IRS may assess related to this matter.

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Two big tax bills will affect Californians. The Federal Stimulus bill will decrease your taxes and the California budget bill will increase them. Here are a few of the important changes that will affect your tax returns.

Non-Business Changes

Homebuyer credits

Californians have two chances to get a tax credit: federal and state.

Federal credit: If you buy a home in 2009 on or before November 30, 2009, you can get a federal tax credit of up to \$8,000. A "credit" is treated just like withholding, so it increases the amount of your refund. Better yet, even though you buy a home in 2009, you can report it on your 2008 return and get the refund fast. In fact, you can do that even if you've already filed your 2008 return; we just file an amended return and claim the credit. There are three major limitations:

1. You only qualify if neither you nor your spouse (if married) have owned a principal residence for at least three years as of the date of purchase;
2. You have to live in the residence for at least three years or you have to pay back the credit;
3. Your credit is reduced if your income is \$75,000 or more and completely eliminated if it's \$95,000 (those numbers are increased to \$150,000 and \$170,000 for married filing joint).

California credit: If you buy a brand new, never-occupied home you qualify for a credit of 5% of the purchase price up to a maximum credit of \$10,000. There are no income restrictions. However:

- The credit is available if you purchase a personal residence on or after March 1, 2009, and before March 1, 2010. You must occupy the home as your residence for at least two years or you must pay the credit back;
- You take $\frac{1}{3}$ of the credit per year. This means if you buy a new house in 2009, you would take the credit on your 2009, 2010, and 2011 returns.
- The seller (builder) must provide you with a certificate that they obtain from the Franchise Tax Board within one week of the purchase.
- You need to hurry the credit is limited to \$100 million. The credit will be award on a first-come, first-served basis. It is projected that the credit will be gone in three to four months.



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Making Work Pay Credit

This year you'll get a credit of up to \$400 (\$800 for married filing joint). The credit is 6.2% of your *earned income* with the above maximums. "Earned income" means W-2 income or self-employment income. Unlike the stimulus check last year (or some this year) you will not receive a check. Instead the IRS has already adjusted the withholding tables to account for this credit. If you receive a W-2 you will notice about \$13 per week increase in your check because of the lower withholding amount. This means if you are doing your own payroll your job just got more complicated. If you are doing your own payroll make sure you are using the most recent withholding tables. These tables will change at least three times over the next 12 months. Or even better than worrying about withholding tables now maybe finally the time you hire [CompuPay](#) to do your payroll for you. Also unlike the stimulus check everyone is eligible except:

- Nonresident aliens
- An individual who can be claimed as a dependent by another taxpayer; and
- An individual who does not use a Social Security number when filing their tax return

Economic Recovery Payment

Recipients of Social Security retirement benefits, railroad retirement benefits and veterans' disability or pension benefits plus individuals of any age eligible for SSI benefits will receive a one-time payment of \$250. Any person who was eligible to receive one of those four benefits in November or December of 2008 or January of 2009 will receive the payment. The government will start issuing the checks no later than June 17, 2009. The exact date has not been announced. No action of any kind is required on the part of an eligible recipient. As they say the check is in the mail. There are no limitations on who is eligible for this payment however your Making Work Pay Credit (discussed above) will be reduced by this \$250 payment.

Government Retiree Credit

Certain government retirees will get their own version of the \$250 Economic Recovery Payment. However, this credit will not be sent to the recipient; it will be claimed on the 2009 tax return. Any former federal, state, or local government employee is eligible if their salary during their employment years wasn't treated as employment for FICA purposes. No individual can get both the Government Retiree Credit and an Economic Recovery Payment.



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Sales tax deduction on new cars

You can get a deduction for sales taxes paid on the purchase of a *new* car for purchases made on or after February 17, 2009, and no later than December 31, 2009. Passenger autos, light trucks, motorcycles, and motor homes qualify. The deduction is available even for taxpayers who don't itemize. The deduction is reduced for taxpayers with incomes over \$125,000 and eliminated for incomes over \$135,000 (\$250,000 and \$260,000 on a joint return).

Exclusion for unemployment compensation

You will be able to exclude from taxable income up to \$2,400 of unemployment compensation in 2009.

Hope Credit enhanced

If you or your child pays college tuition and fees in 2009, the Hope Credit has been improved in a number of ways. First the name has been changed to the American Opportunity tax credit. But most significantly, the income limitations have been increased substantially. If you were unable to take the credit in prior years because of the income limitations, you may have a better shot at it in 2009. I guess we can no longer say that only those families that can't afford to send their children to college can qualify for the credit. The phase-out level has been increased to \$80,000 (\$160,000 for joint filers). The HOPE education credit, which had been limited to the first two years of college, has been extended to all four years of college, and course materials have been added as qualifying expenses. The credit has been increased to a maximum of \$2,500 per year from \$1,800. The enhanced credit is retroactive to January 1, 2009 and applies through December 31, 2010.

Qualifying Sec. 529 expenses expanded

Under section 529 qualifying higher education expenses generally include tuition, fees, books, supplies, and equipment required for enrollment and attendance at an eligible educational institution. For 2009 and 2010 qualifying expenses will also include computer technology (computers, peripheral equipment and software), internet access, and related services. The computer technology must be used predominantly for education. Sorry clause (iii) says that expenses for software designed for sports, games, or hobbies are not included unless the software is educational in nature.

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Refundable child credits increased

The refundable portion the Child Tax Credit for 2009 and 2010 has been increased. The Child Tax Credit is generally refundable at 15% of the amount by which the taxpayer's earned income exceeds \$10,000. For 2009 and 2010 the \$10,000 threshold is lowered to \$3,000

The Earned Income Tax Credit is also increased for 2009 and 2010. The percentage for these two years is 45% of the first \$12,570 of earned income for taxpayers with three or more qualifying and the phase-out range has been adjusted upward. The prior law percentage was 40% of the first \$12,570 earned income for a taxpayer with two or more qualifying children.

Residential energy credits enhanced

Both the Non-Business Energy Efficient Property Credit and the Residential Energy Efficient Property Credit have been enhanced. These credits for making energy-efficient improvements to your home have been greatly increased. The credits apply to such improvements as solar water heaters, geothermal heat pumps, and energy-efficient windows, among others. For 2009 and 2010 the following changes have been made to the Non-Business Energy Efficient Property Credit:

- The credit is increased from 10% to 30%
- The dollar limitations on residential energy property expenditures are eliminated including:
 - \$50 for each advanced main air circulating fan
 - \$150 for each qualified natural gas, propane, or oil furnace or hot water boiler
 - \$300 for each item of qualified energy efficient property
 - \$200 for windows
- The lifetime limitation of \$500 for the credit has been eliminated. The credit is now limited to \$1,500 in the aggregate for 2009 and 2010.
- Many of the technical requirements for property qualifying for the credit have been changed

The Residential Energy Efficient Property Credit has been enhanced by removing the credit caps on qualified solar water heating property, geothermal heat pumps and small wing energy property.



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AMT Changes

AMT was once again temporarily “patched” for 2009 preventing millions of taxpayers from falling into AMT. The patch was expected and once again the patch is just for one year but at least for once we don’t have to wait until the end of the year for the AMT patch to see if congress would actually do it.

Two other very welcome changes to AMT were also enacted.

Interest on private activity bonds will not subject to AMT for 2009 and 2010 that is, it will not be treated as a preference item in computing alternative minimum taxable income. Generally, private activity bonds are state and local bonds issued to provide financing for private purposes. They are exempt from federal income tax if they meet certain requirements but had not been exempt from AMT.

The provision that allows nonrefundable credits to be used against AMT was extended one more year for 2009. Those credits are:

- Child Care Credit;
- Credit for the elderly and disabled;
- Adoption Credit;
- Child Tax Credit;
- Credit for interest on certain mortgages;
- Hope and Lifetime Learning credits;
- Saver’s Credit;
- D.C Homebuyer’s Credit;
- Non-business Energy Credit;
- Residential Energy Efficient Property Credit
- The non-business portion of the Plug-in Elective Drive Motor Vehicle Credit (

California tax rates increase

Individual incomes increase by .125% if the state receives enough money of the federal stimulus dollars or increase by .25% if the state does not receive enough the federal stimulus dollars. At the time this is being written it is still uncertain if the amount of federal stimulus dollars will be enough to trigger the lower increase, but for now it seems most likely that the higher increase will occur. The tax increase is at every tax bracket including the lowest. The rate increase only applies to the 2009 and 2010 tax year, however if voters approve Proposition 1A the increase will be extended through the 2012 tax year.



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	Current Rate	With Required Stimulus Funds	Without Required Stimulus Funds
Lowest bracket	1%	1.125%	1.25%
Maximum bracket	9.3%	9.425%	9.55%
With mental health surcharge	10.3%	10.425%	10.55%
2009 AMT	7%	7.125%	7.25%

Business rates remain the same.

California sales tax goes up

On April 1, 2009, your sales tax rate will increase by 1%. So, try to make any major purchases before April 1. The difference in sales tax on a \$50,000 car for example is \$500.

California car tax increase

The California DMV fee will increase on May 19, 2009. The rate goes from 0.65% of the value of the automobile to 1.15%. If you purchase a \$50,000 automobile after May 19, your DMV fee will increase by \$250 (\$575 - \$325). If you are going to buy a new car do so by April 1 to avoid the sales tax increase. If you don't make your purchase by then at least try to purchase a car by May 19 to avoid the increased DMV fee.



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Business Changes

Net operating losses for small businesses

Under the old law a taxpayer could choose to first carry back net operating losses back 2 years and then forward 15 years or forgo carrying the loss back and instead first carry the loss forward for 15 years. Now an eligible small business with a net operating loss generated in years beginning or ending in 2008 may choose to first carry a net operating loss back 2 years, 3 years, 4 years, 5 years or not carry it back at all. Regardless of which carry back period is chosen the carry forward period remains 15 years.

An eligible small business is a business whose average annual gross receipts for the three years ending with the year of the loss are \$15 million or less.

The election for the 3, 4 or 5 year carry back must be made on a timely filed return (including extensions). For all intents and purposes the election cannot be made on an amended return.

Estimated tax payment requirement eased for small business owners

For 2009, an individual who is a small business owner may avoid the underpayment penalty if that individual makes estimated tax payments equal to the lesser of 100% of the tax shown on the return or 90% of the tax shown on the return for the preceding year. Generally, the requirement is 100% of the prior-year tax or 110% if the AGI for the preceding year exceeded \$150,000.

An individual qualifies if:

- The adjusted gross income on the prior-year return is less than \$500,000 (\$250,000 for a married individual filing separate; and
- The individual certifies that more than 50% of the gross income shown on the prior year return was income from a small business. The certification must be in the form and manner as the IRS may prescribe. "Small business" means a business which had an average of less than 500 employees during the calendar year ending with or within the preceding tax year of the individual.

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Bonus depreciation and §179 expensing extended one year

For purchases of plant and equipment used in a business, the accelerated depreciation rules have been extended for an additional year.

Sec. 179 Depreciation - The Act extended the \$250,000 expensing (rather than depreciating) of business equipment to 2009. In addition, it increased the threshold for reducing the deduction to \$800,000 of new purchases.

Bonus Depreciation - The 50% first year bonus depreciation on new property has been extended through December 31, 2009 and is retroactive to January 1, 2009.

Luxury auto first-year depreciation limitation increased

As a result of the extension of bonus depreciation, the increase in first-year depreciation of qualified automobiles and light trucks by \$8,000 is also extended for an additional year. The total amount of the depreciation deduction will depend on the inflation-adjusted basic limit imposed annually by the IRS. The IRS has not yet announced the amounts. For comparison purposes, however, the 2008 basic amounts were \$2,960 for automobiles and \$3,160 for light trucks. As such, the amounts with bonus depreciation were \$10,960 and \$11,160, respectively.

Work Opportunity Credit includes two new targeted groups

For 2009 and 2010 two new targeted groups for the Work Opportunity Tax Credit were created Unemployed Veterans and Disconnected Youth. The new categories apply to individuals who begin work for the employer in 2009 or 2010.

An unemployed veteran is defined as a veteran who has served on active duty (other than for training) in the Armed Forces for more than 180 days or who has been discharged or released from active duty in the Armed Forces for a service-connected disability, and who is certified by the designated local agency as:

- Having been discharged or released from active duty in the Armed Forces during the five-year period ending on the hiring date; and
- Receiving unemployment compensation under State or Federal law for not less than four weeks during the one-year period ending on the hiring date.

A disconnected youth is defined as an individual certified by the designated local agency as someone:

- At least age 16 but not yet age 25 on the hiring date;



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- Not regularly attending any secondary, technical, or post-secondary school during the six-month period preceding the hiring date;
- Not regularly employed during such six-month period; and
- Not readily employable by reason of lacking a sufficient number of basic skills. It is intended that a low-level of formal education may satisfy the requirement that an individual is not readily employable by reason of lacking a sufficient number of skills.

S corporation built-in gain tax holding period shortened

The built-in gain recognition period is reduced from ten years to seven. As such, the recognition period will end at the beginning of the 2009 tax year if the S election was made for the 2002 tax year and at the beginning of the 2010 tax year if the election was made for 2003.

The built-in gain tax only applies to S corporations were converted from C corporations. If you do not know what the built-in gain tax is then more than likely it does not apply to you.

Small business stock exclusion increased

For qualified small business stock (QSBS) acquired after February 17, 2009, and before January 1, 2011, the exclusion for the gain on the sale is increased from 50% to 75%.

Miscellaneous Business Provisions

Transportation fringe benefits: Starting in March 2009 and continuing through December 2010, the Act increases the monthly exclusion for employer-provided transit and vanpool benefits to the same level as the exclusion for employer-provided parking, indexed for inflation (up to \$230 per month for 2009).

Withholding on government contractors delayed: The Act delays 3% withholding on payments made by federal, state, and local governments to individuals providing services. The Act delays implementation by one year to payments made after December 31, 2011.

New Markets Tax Credit limit increased: For calendar years 2008 and 2009, the Act increases the maximum amount of qualified equity investments to \$5 billion (an increase of \$1.5 billion for each year). The Act requires that the additional amount for 2008 be allocated to a qualified community development entity that submitted an allocation application with respect to calendar year 2008 and either:

- Did not receive an allocation for such calendar year; or
- Received an allocation for such calendar year in an amount less than the amount requested in the allocation application.

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Credit for qualified alternative refueling property increased: For property placed in service during 2009, the Act increases the maximum credit available for business property to \$200,000 for qualified hydrogen refueling property and to \$50,000 for other qualified refueling property. For non-business property, the maximum credit is increased to \$2,000. In addition, the credit rate is increased from 30% to 50%, except for hydrogen refueling property, which remains at 30%.

Plug-in Vehicle Credit: The Act makes several changes to the plug-in credit first enacted in the Emergency Economic Stabilization Act of 2008:

- Creates a new 10% credit for electric drive low-speed vehicles, motorcycles, and three-wheeled vehicles. The maximum credit for such vehicles is \$2,500. The new credit is not available for vehicles sold after December 31, 2011
- Creates a new 10% credit, up to \$4,000, for the cost of converting any motor vehicle into a qualified plug-in electric drive motor vehicle. To be eligible for the credit, a qualified plug-in traction battery module must have a capacity of at least four kilowatt-hours. The credit is not available for conversions made after December 31, 2011
- Modifies the plug-in electric drive motor vehicle credit by limiting the maximum credit to \$7,500 regardless of vehicle weight. The conference agreement also eliminates the credit for low speed plug-in vehicles and for plug-in vehicles weighing 14,000 pounds or more.
- Replaces the 250,000 total plug-in vehicle limitation with a 200,000 plug-in vehicles per manufacturer limitation.

Delayed recognition of certain cancellation of debt income: The Act allows certain businesses to elect to defer reporting cancellation of indebtedness income arising from a "reacquisition" of "an applicable debt instrument" after December 31, 2008, and before January 1, 2011. In general, the income is deferred for the first five years, and then reported ratably over the next five years. There are many special rules that must be satisfied in order to qualify for this election.

New California credit

California has added new credits for increasing the number of full-time employees. The credit is \$3,000 per qualified employee if the total full-time employees increase over the prior year.

A qualified full-time employee is:

- One who was paid wages, subject to withholding under the California Unemployment Insurance Code, for services of not less than an average of 35 hours per week; or
- A salaried employee who was paid compensation during the taxable year for fulltime employment.



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None of these employees are qualified for purposes of the credit:

- An employee certified as a qualified employee in an economic development area (Enterprise Zone, manufacturing enhancement area, targeted tax area, or LAMBRA); or
- An employee whose wages are included in calculating any other credit.

New business

For taxpayers who first commence doing business in California during the taxable year, the number of full-time employees for the immediately-preceding prior taxable year shall be zero. So, subject to certain limitations, a new business that either first forms in California or moves to California is eligible for the credit.

Timing

The taxpayer shall claim the credit on a timely-filed original return. We believe "timely" to include extensions. However, it appears that if the taxpayer omits the credit on an original return, he or she may not amend the return to claim the credit. The credit is on a first come, first serve basis, and is allowed only on timely-filed original returns received by the FTB on or before the cut-off date. The cut-off date is the last day of the calendar quarter within which the FTB estimates they will have received timely filed original returns claiming the credit that cumulatively total \$400 million for all taxable years.

Tip if your business can qualify for this credit file your California return as early as possible. To be sure you get in before the credit is used up.

Definition of doing business in California

Beginning with the 2011 taxable year, a taxpayer will be considered to be doing business in California during a taxable year if it satisfies one of these tests:

- The taxpayer is organized or commercially domiciled in this state;
- The taxpayer's California sales, including sales by an agent or independent contractor, exceed the lesser of \$500,000 (adjusted annually for inflation) or 25% percent of the taxpayer's total sales;
- The taxpayer's California real property and tangible personal property exceed the lesser of \$50,000 (adjusted annually for inflation) or 25% of the taxpayer's total real property and tangible personal property;
- The amount paid in California by the taxpayer for compensation exceeds the lesser of \$50,000 (adjusted annually for inflation) or 25% of the total compensation paid by the taxpayer. Compensation is determined by using the rules for assigning payroll



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New film/TV production credit

For taxable years beginning on or after January 1, 2011, taxpayers are allowed a credit of 20% of production expenses for qualified motion pictures produced in California, or 25% of production expenses for an independent film, or a TV series that relocates to California. Taxpayers must first apply to the California Film Commission (CFC) for a credit allocation and, upon completion, receive a credit certificate from the CFC. The commission is limited to \$100 million of credit allocations in any fiscal year. Although the credit may not be claimed until taxable years beginning in 2011, taxpayers may apply for the credit beginning July 1, 2009, and before July 1, 2014.

Qualified productions

- A "qualified motion picture" is a motion picture that is produced for distribution to the general public (regardless of medium), that is one of the following:
 - A feature with a budget of at least \$1 million, but not exceeding \$75 million;
 - A movie of the week or miniseries with a maximum production budget of \$500,000; or
 - A new television series produced in California with a minimum production budget of \$1 million that is licensed for original distribution on basic cable.

(These productions qualify for a credit of 20% of production expenses.

Additionally, the following productions qualify for a credit of 25% of production expenses:

- An independent film, with a budget of \$1 million to \$10 million, which is produced by a company that is not publicly owned (and not more than 25% of the company is held directly or indirectly by a public company); or
- A television series that relocates to California.
- For any production to qualify for the credit, all of the following conditions must be satisfied:
 - At least 75% of the production days occur wholly in California, or 75% of the production budget is for services or property used within California;
 - Production is completed within 30 months of the date the CFC approves the credit application;
 - The copyright is registered with the U.S. Copyright office; and
 - Principal photography begins in the 180-day period after the CFC approves the credit application.
 - Qualified motion pictures do not include commercials, music videos, pictures produced for private use, or pictures produced as part of an educational course.